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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/687,239
Filing Date: October 16, 2003
Appellant(s): GILFIX ET AL.

Edward J. Lenart
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed February 12, 2010 appealing from the Office action mailed September 15, 2009.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

7,120,924	Katcher et al.	10-2006
2002/0056136	Wistendahl et al.	05-2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-3 and 5-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Katcher.

Regarding claim 1: Katcher discloses a method and system for delivering interactive advertising content which comprises (see [abstract], [col. 4, ll. 14-48]): receiving a selection signal indicating that a user has selected an item displayed on a television screen wherein the item has associated interactive advertising content; responsive to receiving the selection signal, identifying the selected item; (see [fig. 1], [col. 14, ll. 22-32], [cols. 17-18, ll. 64-11] for selecting); and displaying the associated interactive advertising content (see [col. 18, ll. 12-55] for displaying advertising content which includes the brand name, model, price, local vendor, etc.), receiving and storing advertising data that associates the selected item with a screen region and with interactive advertising content (see

[fig. [cols. 1-2, ll. 50-3] for receiving and storing annotation and mask data), the advertising data encoded in a digital stream separate from a video signal (see [fig. 2, 2a-2d], [abstract], [cols. 1-2, ll. 50-3], [col. 6, ll. 5-25], [cols. 6-7, ll. 50-12], [col. 7, ll. 32-50] where PIDs are used to identify multiple elementary streams contained within the transport stream in the MPEG2 standard) and synchronized with movement in a video display displaying the video signal (see [col. 4, ll. 14-48], [col. 5, ll. 25-42], [cols. 11-12, ll. 21-2] where the mask associated with a particular object, such as a shirt, is moved frame by frame along with the object displayed in the video, thus the advertisement content is synchronized with the video signal on a frame by frame basis), wherein receiving the advertising data comprises receiving the data stream through a digital network (see [col. 6, ll. 5-25], [cols. 28-29, ll. 54-8] for a digital broadcast network).

Regarding claim 3: Katcher discloses all of the limitations of claim 2 including wherein receiving the advertising data comprises receiving the advertising data encoded in a video signal that includes a video image of the item (see [col. 4, ll. 34-48] for receiving the video image of the item).

Regarding claim 5: Katcher discloses wherein the advertising data includes instructions for control of the display of interactive non-intrusive advertising content for the item (see [abstract], [col. 4, ll. 34-48], [col. 11, ll. 34-67] for advertising data which includes instructions for display control).

Regarding claim 6: Katcher discloses all of the limitations of claim 1 further comprising: receiving one or more designation signals, wherein each

designation signal represents an instruction to designate an item having associated non-intrusive interactive advertising content; responsive to receiving each designation signal, designating singly, as a currently designated item, each of a multiplicity of items having associated non-intrusive interactive advertising content; wherein identifying the selected item comprises identifying as the selected item the currently designated item (see [fig. 1], [fig. 5], [col. 4, ll. 34-48], [col. 12, ll. 10-42], [col. 14, ll. 22-32]).

Regarding claim 7: Katcher discloses all of the limitations of claim 6 including wherein designating singly each of a multiplicity of items further comprises logically designating an item and visually designating an item (see [figs. 1a-1d], [fig. 5], [fig. 12, ll. 10-42], [col. 14, ll. 22-32] for visual and logical designations).

Regarding claim 8: Katcher discloses all of the limitations of claim 7 including wherein logically designating an item comprises setting a designation data element in advertising data for the item (see [abstract], [col. 4, ll. 34-37], [fig. 5], [fig. 12, ll. 10-42], [col. 14, ll. 22-32]).

Regarding claim 9: Katcher discloses wherein visually designating an item comprises displaying descriptive text for the item (see [fig. 1] for descriptive text).

Regarding claim 10: Katcher discloses all of the limitations of claim 7 including wherein visually designating an item comprises changing a video

display of the item (see [fig. 1], [col. 17, ll. 64-2] for changing the appearance of the video display item).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Katcher, in view of Wistendahl et al. U.S. Pre-Grant Pub. No. 2002/0056136 A1 (hereinafter Wistendahl).

Regarding claim 11: Katcher does not teach tracking a cursor position on the television screen, wherein identifying the selected item comprises identifying the selected item in dependence upon the cursor position when the selection signal is received.

Wistendahl teaches the use of a mouse or other pointing device which is tracked to correlate the screen coordinates of the pointing device with what the user has selected (see [0015], [0016], [0042], [0067], [0088]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the methods of interacting with the items on the screen using a selection device as taught in Katcher by using a

pointing device which can track screen coordinates as taught by Wistendahl in order to provide a more efficient means of selecting an item on the screen.

Regarding claim 12: The combined teachings of Katcher, in view of Wistehdahl, teach wherein the identifying the selected item in dependence upon the cursor position further comprises determining whether the cursor position is within a screen region associated with the item (see [0015], [0016], [0042], [0067], [0088] for determining whether a pointing device or cursor is aimed at a hot spot (screen region associated with the item) or at positions of objects).

Regarding claim 13: The combined teachings of Katcher, in view of Wistehdahl, teach wherein the advertising content comprises a web page describing the item and offering an on-line sale of the item (see [0043], [0064] initiating an internet connection to a WWW service which offers an item for purchase).

Regarding claim 14: The combined teachings of Katcher, in view of Wistehdahl, teach wherein displaying the associated non-intrusive interactive advertising content comprises downloading a web page from a remote web site identified in a link associated with the selected item (see [0043], [0064] where a web page can be downloaded through a link associated with a selected item).

(10) Response to Argument

I. First Ground of Rejection on Appeal: Claims 1, 3 and 5-10.

A.1. Claim 1.

1. The appellant argues that Katcher "does not anticipate the claims of the present application because [Katcher] does not disclose every element and limitation recited in the claims of the present application." (see pg. 5). More specifically appellant argues that Katcher does not disclose, "receiving and storing advertising data that associates the selected item with a screen region and with interactive advertising content, the advertising data encoded in a digital stream separate from a video signal and synchronized with movement in a video display displaying the video signal, wherein receiving the advertising data comprises receiving the data stream through a digital network" (Ibid.). Appellant goes on to state, regarding Katcher's use of packet identifiers to identify element in the transport stream, that "the packet identifiers are only necessary because advertising data and video are not encoded in separate streams. That is, packet identifiers of the type described in [Katcher] would be unnecessary if advertising data and video data were encoded in separate streams, as all data in the video stream would be video data and all data in [the] advertising stream would be advertising data. Packet identifiers are necessary for all packets in [Katcher's] single augmented stream only because advertising data and video data are combined into a single stream, thereby creating the need to distinguish between packets containing different types of data that are within a single stream" (see pg. 6). The examiner disagrees.

i. As stated by the appellant the claim recites, "receiving and storing advertising data that associates the selected item with a screen region and with interactive advertising content, the advertising data encoded in a digital stream separate from a video signal and synchronized with movement in a video display displaying the video signal, wherein receiving the advertising data comprises receiving the data stream through a digital network" (see Claim 1). Katcher teaches each and every one of these limitations.

(a) Katcher teaches "receiving and storing advertising data that associates the selected item with a screen region and with interactive advertising content" by disclosing an advertising system which includes a receiving device having a memory for storing received advertising data, such as annotation data, masking and/or object data, where the data stored also contains information about the location and/or shape of the objects identified in video frames and information that enables viewer interactions with identified objects (see [cols. 1-2, ll. 50-3], [col. 8, ll. 43-53], [col. 11, ll. 21-33], cols. 11-12, ll. 34-2)).

(b) Katcher also teaches that "the advertising data [is] encoded in a digital stream separate from the video and synchronized with movement in a video display displaying

the video signal” by demonstrating, in more than one example, that the video and advertising data both originate from different sources and are processed independently of one another both for transmission, after being multiplexed, and upon being received. Although both the video and data accompany one another in transport, they are never integrated and are still processed independently (see [see [fig. 2, items 20, 28] for data sources; see also [fig. 2a, items 29, 27, 44, 48] where both the video and data are encoded separately, not together as appellant suggest, and multiplexed for transmission or even multiplexed a second time with other augmented transport streams). The advertising data remains separate from the video signal and is treated as such (see [figs. 2, 2a], [cols. 4-5, ll. 65-9], [col. 5, ll. 25-43] where video data 22 received from video source 20 is encoded by video encoder 36 into video signal 29 (i.e. MPEG) independent of the data signal 27, which is encoded independently of video signal 29 by the data packet stream generator 40 which encodes the data that is said to “accompany” the video using multiplexer 44, resulting in a primary “augmented” transport stream 46 (i.e. independent of other augmented streams which can be later added); see

also [fig. 4], [col. 6, ll. 5-9], [col. 8, ll. 31-52] where these two encoded streams, while being combined, remain independent of one another). Katcher also teaches using time stamp data and mask information to synchronize the advertising data with the movement in the video display (see [cols. 5-6, ll. 53-4], [cols. 11-12, ll. 21-2] where synchronization is accomplished through both timestamp data which is shared between both the video and advertisement data stream during the encoding process and masking information which stores information about the location and/or shape of objects identified in video frames).

(c) Katcher further teaches "wherein receiving the advertising data comprises receiving the data stream through a digital network" (see [fig. 2a, item 12], [abstract] [col. 15, ll. 44-52] for a digital television broadcast network infrastructure; see also [cols. 28-29, ll. 54-8] for using a computer network or the internet).

(d) Alternatively, and as referenced to in the Final Office Action dated September 15, 2009, by advantageously using the timestamp features (see [cols. 5-6, ll. 53-4] where the video transport stream 29 and the data packet stream 27 are both encoded with time stamp data) Katcher teaches that it

is anticipated for the data packet stream to also be transmitted through a digital data network which is independent of the network on which the video is transmitted, made possible by the timestamp information which allows the video and data to remain synchronized when received and processed (see [col. 28-29, ll. 54-8] where the digital data network can be a computer network, or the internet).

2. The appellant's arguments seek more weight for the limitation "separate" than what is provided in the claim.

i. In the argument presented the appellant suggests that Katcher, "does not disclose advertising data that is encoded in digital stream separate from a video signal." (see pg. 6). As discussed above, it is clear that Katcher teaches encoding both the video and data independently of one another to create an augmented transport stream (see [fig. 2a, items 36, 29 for encoding the video and 40, 27 for encoding the data]). Furthermore, in the specification "video signal" is not defined such that it would limit the "video signal" to a particular type of network which must be separate or different from the network which transmits the advertising data. Rather a "video signal" can be "from a broadcast channel, a cable channel, video on demand ... or from any other

source of video as may occur to those of skill in the art." (see pg. 21, ll. 15-17). Because the appellant has not captured this distinction in the claim language, the examiner is not precluded from relying on Katcher to teach a system which separately encodes video and data streams which, while both are transmitted over a digital video network, are still identified and processed as separate streams (see [cols. 4-5, ll. 65-9], [col. 6, ll. 5-9], [col. 7, ll. 32-50] where both streams are multiplexed together referred to as an "augmented transport stream").

ii. Furthermore, the claim language does not provide limitations to distinguish between two different and distinct networks. In claim 1, there is no language to suggest the use of a secondary, or even a primary network, to indicate that the advertising data must be isolated from the video transmission. Figure 3 of appellant's specification may hint on using two separate networks for the video and data, but the examiner is unable to find this captured in the claim.

3. Therefore, the claim as recited does not preclude both the video and data from being transmitted on the same network while at the same time being "encoded in a digital stream separate from a video signal." While the specification may hint at the use of two separate and distinct networks, there is no language in the claim which suggests such a system

structure. Furthermore, even if such language were included in the claims, Katcher anticipates the use of a network such as the internet (i.e. a digital data network), as disclosed in the Final Office Action dated September 15, 2009, which is explicitly taught as a secondary network, separate and distinct from the digital video network used to transmit the video content (see [cols. 28-29, ll. 54-8]).

A.2. Claims 3 and 5-10.

The appellant has made no specific arguments other than those directed to independent claim 1.

II. Second Ground of Rejection on Appeal: Claims 11-14.

A.1. Claims 11-14.

The appellant has made no specific arguments other than those directed to independent claim 1.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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